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EXAMINER

NERANGIS, VICKEY MARIE

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

07/13/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. All outstanding rejections, except for those maintained below, are withdrawn in light of applicant's amendment filed on 4/20/2010.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior office action.
3. The new grounds of rejection set forth below are necessitated by applicant's amendment filed on 4/20/2010. In particular, claims 1 and 22 have been amended to include improper Markush language. Thus, the following action is properly made final.

Claim Rejections - 35 USC § 112

4. Claims 1, 5, 8, 10, 11, 13, 16, 19, 20, 22, 23, 27, 29, 34-37, 39, 42, 45, and 72-76 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 1 and 22, the claims appear to improperly recite a Markush group. Consequently, it is impossible to determine which elements of the group are required by the claims. When materials recited in a claim are so related as to constitute a proper Markush group, they may be recited in the conventional manner, or alternatively. For example, if "wherein R is a material selected from the group consisting of A, B, C and D" is a proper limitation, then "wherein R is A, B, C or D" shall also be considered proper (emphasis added). See MPEP § 2173.05(h). Note that nested alternative groups within Markush language must also adhere to proper Markush language. For instance, language " R^2 and R^2 are the same or different and are selected from the group consisting of hydrogen, C_1 to C_{20} alkyls, alkenyls and aryls..."

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(underlining added for emphasis) is incorrect as the phrase " C₁ to C₂₀ alkyls, alkenyls and aryls" is also an alternative expression which should have "and" substituted with "or." Similarly, the description of substituted C₁ to C₂₀ alkyls, alkenyls, and aryls should also be amended to recite "or."

With respect to claims 5, 8, 10, 11, 13, 16, 19, 20, 23, 27, 29, 34-37, 39, 42, 45, and 7—76, they are rejected for being dependent on a rejected claim.

Claim Rejections - 35 USC § 103

5. Claims 1, 5, 8, 10, 11, 13, 16, 19, 20, 22, 23, 27, 29, 34-37, 39, 42, 45, and 72-76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arjunan (US 5,700,871) in view of Elpass (US 5,807,629).

The rejection is adequately set forth in paragraph 8 of Office action mailed on 1/20/2010 and is incorporated here by reference.

Response to Arguments

6. Applicant's arguments filed 4/20/2010 have been fully considered but they are not persuasive. Specifically, applicant argues that one of ordinary skill in the art would be concerned that the addition of the amine-modified clay would disrupt the dispersion of Arjunan and therefore the combination of Arjunan with Elpass cannot be done with a reasonably expectation of success.

In response, Arjunan teaches the addition of amine compounds (see col. 7, line 34; col. 8, line 8) with no indication of how an amine could affect the dispersion of the compatibilized

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elastomeric composition. Therefore, one of ordinary skill in the art would have no reasons to suspect that the amine in the amine-modified clay of Elpass would affect the dispersion of the blend taught by Arjunan.

Furthermore, the amines of Elpass are stably reacted with the layered clay minerals and would not readily react with the blend components of Arjunan.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vickey Nerangis whose telephone number is (571) 272-2701. The examiner can normally be reached on Monday - Friday, 8:30 a.m. - 5:00 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

vn

/Vickey Nerangis/
Primary Examiner, Art Unit 1796